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FCC Mail Room

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March 4, 2009

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Petitions for Declaratory Ruling Regarding Public, Educational and  
Governmental Access Channels, MB Docket No. 09-13, CSR-8126 (ACM *et al.*),  
CRS-8127 (City of Lansing, MI), and CSR-8128 (City of Dearborn, MI *et al.*)

Dear Ms. Dortch:

The City of Palm Coast, Florida supports the contributions made by the PEG channels in our community and therefore the Office of the Mayor has submitted its comments electronically to the FCC strongly urging the Commission to grant all of the petitions presented.

*Please find enclosed a hardcopy* of our contributing comments to the Commission as they relate to the above Petitions for Declaratory Ruling Regarding Public, Educational and Governmental Access Channels.

With first-hand experience, our concern is the practice of cable companies migrating their analog PEG channels to their digital tier, otherwise known as "channel slamming". As a member of the organization FLATOA, we believe that all access channels should be presented on the lowest tier available to all subscribers regardless of their level of service and in channel positions adjacent to and of equal or greater technical quality as the "must-carry" broadcast affiliates.

The enclosed information is respectfully submitted for your review.

Sincerely,

Thomas Hanson  
Video Production Coordinator  
City of Palm Coast -- TV199  
305 Palm Coast Parkway, NE  
Palm Coast, Florida 32137

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OFFICE OF THE MAYOR

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**COPY**

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Dear Ms. Dortch:

The City of Palm Coast, Florida urges the Commission to grant all three of the above-captioned petitions concerning public, educational and governmental ("PEG") access channels. The City of Palm Coast is located in Flagler County, where the sole cable provider in the county is Bright House Networks (BHN). BHN pursued a competitive business strategy in Flagler County, and now it's only competition is from satellite providers.

AT&T is not presently offering its cable service, "U-Verse" here in Flagler, however, we believe it is a matter of time before AT&T begins offering its competitive cable service to the local market, and it is for this reason that the City of Palm Coast urges the Commission to grant the above cited petitions. We understand the reports and findings that AT&T's transmission and delivery of PEG is qualitatively inferior to traditional cable delivery, and to this matter, the City of Palm Coast would expect any competitor to be held to the existing quality standards of the current cable provider.

What we are witnessing in other areas of the country pose a great concern to the cities in Flagler County. In March of 2007, the State of Florida passed its state cable franchising bill, the "Consumer Choice Act of 2007" or, HB529, effectively removing local regulatory oversight of local cable providers. Therefore, we remain diligently attentive to the issues facing municipalities across the country that share similar legislative and regulatory restrictions.

Accordingly, to preserve PEG as envisioned in the Cable Act, the Commission should grant the petitions in CSR-8126 and CSR-8127.

**1. PEG Programming in the City of Palm Coast, Florida**

Palm Coast Municipal Access TV199 (PCMA-TV199) serves as the local city PEG channel to all residents of Flagler County, Florida. It is funded in part through a grant from

Bright House Networks. It is operated by the City of Palm Coast, and is governed through an inter-local agreement with the cities of Flagler Beach and Bunnell, Florida, each a contributing financial partner. Further partners in the inter-local agreement include the Flagler County School District and Daytona State College, each serving in an advisory, non-financial capacity.

The channel was launched on January, 2, 2007, and offers a wide variety of programming for our residents, including:

- Live and taped coverage of Palm Coast City Council meetings and Flagler Beach Commission meetings.
- Newsbriefs covering area civic and cultural events.
- Local origination programs including Our Town, the mayor's show covering detailed information on timely issues, and Focus on Youth, the school superintendent's show.
- Coverage of local and regional seminars and town hall meetings. Topics range from prescribed burn activities, road projects, and small business education to environmental planning and budget workshops.
- Public Service Messages and short videos from city departments explaining various roles of government services designed to educate and enhance resident's quality of life.
- Station news crawls with news announcements and weather watches/warnings.
- Responsive, timely packaging and delivering of vital information during storm and hurricane emergencies, including messages from the mayor and emergency response officials, 24/7 real-time NOAA weather radio transmissions, just in time bulletin board updates including road closings, press conferences, shelter availability, sandbag information & safety reminders.
- Satellite broadcast of the Pentagon and NASA Channels, bringing residents daily news and information from around the services and bridging classroom learning with real world experiences. Also Classic Arts, supporting cultural arts in the community.
- Public safety and consumer protection programming covering a gamut of topics from fire safety and driving tips to teen suicide prevention and fraud awareness.

We believe that PEG programming in the City of Palm Coast provides local residents with a full range of informational, educational, cultural, public safety and local programming of unique interest that they cannot obtain anywhere else. PCMA-TV199 offers residents a video on demand service at its website: [www.pcma-tv199.org](http://www.pcma-tv199.org). Examples of the quality, diversity and local nature of TV199's programming may be viewed.

## **2. The Situation in Our Community**

The PEG channels in our community were digitized in January of 2008. Our primary concern is that Bright House Networks (BHN) "migrated" what is now digital channel 199 from its prior location, which was analog channel 99. Currently, an analog customer subscribing to the basic tier must pay \$1.00 per month extra for a converter box to continue receiving local PEG channels.

This event has caused much confusion for residents. It is common for their customer service representatives to mistakenly inform residents that in order to receive PEG they need digital service, and not inform them of the \$1.00 converter box. Further, they are not informing residents who have a digital tuner in their TV, that they may receive their PEG channel without either a set-top box or a converter box, i.e., with a basic cable subscription, they may simply tune their TV to 99.1 and 99.2 respectively to receive their local PEG channels.

It is estimated that anywhere from 20- 50% of our viewership was lost when BHN moved TV99 to TV199. Many citizens have issued their complaints publicly at city council meetings. We believe removing basic tier subscriber access to PEG is in violation of federal FCC rules that state a provider must place its PEG channels on its basic tier, thereby making PEG available to all customers, with no technical exceptions, such as linking a customer's PEG reception to what type of television they own.

We see this as tantamount to charging subscribers extra to view their local government channel, a clear violation of the original FCC intent for Public, Educational and Government Access programming in America. Therefore, the City of Palm Coast also supports Dearborn's petition in CSR-8128. Dearborn is clearly correct that Comcast's proposed treatment of PEG violates the Cable Act and would have impermissibly removed PEG channels from the basic tier.

### 3. Conclusion

"We rely upon our PEG channels to convey important public information throughout our community. People in our community rely on the channels to receive information that is only available locally. Our channels have become less accessible for technical reasons, and residents must effectively pay extra to receive the channels, therefore our PEG channels have become a much less effective avenue for community communications, and some subscribers we used to reach, are not receiving the information at all.

Our PEG channels are a critical and irreplaceable resource for our community. They are the key medium of communication for our local government and school district to communicate with residents. As there are no broadcast or commercial television stations in Flagler County, we believe that our PEG channels are the only full-time, genuinely local source of television programming available to our residents. We therefore strongly urge the Commission to grant all three petitions.

Respectfully submitted,



Jon Netts  
Mayor

Ms. Marlene Dortch

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Representative Bill Proctor  
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